

# The Yardstick

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## Metric Terminated

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*BWMA gratefully records the Patronage of the late Lord Shore and the Honorary Membership of the late John Aspinall, Nirad C Chaudhuri CBE, Jennifer Paterson, CBE, Leo McKern AO, Norris McWhirter CBE, Fred Dibnah MBE, Sir Julian Hodge, KStG, KStJ, Bernard Levin*

Some splendid news has arrived from the United States of America. On 20 August 2004, the Californian Department of Transportation (Caltrans) announced that it was ending its use of metric units for the construction of state highways. The significance of this move is that Caltrans has been the most longstanding and dedicated supporter of metric units in the field of US state transportation since the big metric push of the early 1990s. While other states have switched back from metric to inch-pound over the past few years, it is news of California's reversion that finishes the US bureaucracy's vision of metric-built highways and bridges for good.

As recently as September 2002, Caltrans issued a memorandum reaffirming its commitment to metric. Caltrans has now made the switch because adopting English units, "aligns the Department with the practices and procedures used by the Department's primary customers and partners: the contracting industry, the Local Agencies in California, other state DOTs *and the citizens we serve*" (our emphasis).

Caltrans has established a "Metric-to-English Transition Team" to implement the change. The Team will begin with the conversion of departmental manuals, guidance and standards documents, and it is expected to take two years for the changes to pass through existing projects. Caltrans predicts "long-term financial advantages" and annual savings from ending metric. It advises that, while "there will be some temptation to begin new projects in English units", staff should hold off until the manuals, software, plans and specifications have been fully updated.

The US Metric Association is in a state of shock and disarray at this announcement. It has held Caltrans up as a role model ever since it adopted metric in 1993. Now, California should be *our* role model; it demonstrates that no matter how entrenched or inevitable metric may appear, the bureaucratic apparatus that sustains it cannot withstand the free market, or the free will, indefinitely.

John Gardner, Director

BWMA is a non-profit body that exists to promote parity in law between British and metric units. It enjoys support from across Britain's political spectrum, from all manner of businesses and the general public. BWMA is financed by member subscriptions and donations. Membership is £10 per year. Cheques or postal orders payable to "BWMA", 44-Greensleeves-Avenue, Broadstone, Dorset BH18 8BJ.

## Campaign Update

### Resistance to metric enforcement

Known actions by Trading Standards Officers against “imperial traders” are as follows:

**Berkshire:** butcher Martin Fidler who received a 28-day infringement notice in March 2004 has received no further response from Trading Standards Officers (TSOs), despite many months having passed since its expiry. Mr Fidler assures BWMA that there are no circumstances in which he will use metric machines. Veterans of the BWMA Parliamentary Lobby of June 2000 may remember that Martin was one of several traders who ceremoniously smashed a set of metric scales next to the statue of Winston Churchill, opposite the House of Commons. BWMA was pleased to recently supply Martin with a video tape of this moment.

**Birmingham:** greengrocer Ian Pedley received a “notice of intent” in July 2004, advising that he should be using metric scales and that a trading standards officer would be visiting to check in due course. BWMA wrote on Mr Pedley’s behalf to the Principal Trading Standards Officer, pointing out that Mr Pedley had not been accused of providing inaccurate pricing or underweight selling, in which case, were there not more pressing matters for TSOs to address, such as the sale counterfeit goods and unsafe foods? Birmingham TSOs declined to follow BWMA’s advice but nonetheless have undertaken to keep BWMA in the loop, so that a witness may be present during future visits to Mr Pedley. Just such a visit is expected in October.

**Lewisham:** after valiant resistance, market trader Jay Cook and others have been issued with Cautions which they have signed. Their weighing scales had been previously seized and the traders did not feel able to continue their fight as they rely on the Council for their pitches.

**Torbay Council:** in late 2003, greengrocer Dennis Webb had his machine put out of action by a TSO with a hammer and punch. This was brought to BWMA’s attention in April 2004 whereupon, on Mr Webb’s behalf, we asked Torbay Council to provide details on the action, why it was carried out, and under what lawful authority. In a reply dated May 20<sup>th</sup>, Torbay Trading

Standards said they would not provide answers to these questions. Following the threat of a complaint to the Ombudsman, they indicated on May 26<sup>th</sup> that they would provide information. After a prolonged delay and a reminder by BWMA, they wrote back on August 10<sup>th</sup> saying they would *not* provide information. On August 23<sup>rd</sup>, BWMA submitted a four-page complaint to Torbay Council, whereupon they again said they *would* provide the requested information. To be continued...

**Scunthorpe:** butcher Richard Nielson changed over to metric machines following a 28-day infringement notice; nevertheless, he continues to price in pounds only and will contact BWMA should TSOs clamp down on this practice. He has agreed to keep his three imperial machines in storage and will lend them to BWMA in the event that they are needed to supply a trader elsewhere.

**Cornwall:** fruitier Julian Harman and fishmonger John Dove, two of the five traders originally convicted in 2002, are continuing to resist pressure to change. They each received a letter in May 2004 from DJ Phillips, Head of Cornwall County Council Trading Standards, saying: “If you choose this course [using non-metric machines], you should be aware that I will have no option but to bring the due process of the law to bear on your activities. Please be on no doubt as to my resolve in this matter. If you persist in your campaign of disobedience then the courts will once again be the inevitable arbiters as the rights or wrongs of your actions”.

**Essex:** butcher Dave Stephens was the first trader in Britain to be issued with an infringement notice, but continues to be disappointed as to why he is not being prosecuted. When he has asked his local authority why he is being left out, they said they had *thought* about taking enforcement action, but decided they would wait a few months, and then think about it some more. January 6<sup>th</sup> 2005 will be the fifth anniversary of his infringement notice, and Dave plans to mark this with a special event.

**It cannot be emphasised strongly enough how important it is that BWMA makes contact with traders still using imperial machines. If BWMA can intercept TSOs before they start proceedings there is a good chance they can be dissuaded. We urge all supporters to search out their local and not so local shops for traders using non-metric machines. Please photocopy the back page of this *Yardstick* and dis-**

**tribute it to such traders. If you do not have access to a photocopy, write to BWMA and we will send you copies.**

BWMA seeks *pro bono* legal support; a practising or retired solicitor would be ideal. If you can help, please contact us urgently as this will assist BWMA in supporting these and other traders.

## The Divisional Court Ruling

A crack has appeared in the February 2002 ruling that convicted Steven Thoburn and fellow traders Peter Collins, Julian Harman, John Dove and Colin Hunt. A supporter who received an order by a local authority to pay a parking fine through the post has staved off collection of the fine by quoting the Bill of Rights Act 1689: "**That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void**". This means that no fine can be imposed until and unless a court of law finds the individual guilty and convicts accordingly.

Of course, under constitutional law, the Bill of Rights Act 1689 is repealed by the Road Traffic Act 1991. This is because the Road Traffic Act provides for fining outside of a court. Under British law, it is always the later Act that takes precedence.

However, Lord Justice Laws said in the 'Metric Martyrs' judgment (sections 62 and 63): "**We should recognise a hierarchy of Acts of Parliament: as it were "ordinary" statutes and "constitutional statutes". The special status of constitutional statutes follows the special status of constitutional rights. Examples are the Magna Carta, Bill of Rights 1689, The Act of Union ... Ordinary statutes may be impliedly repealed. Constitutional statutes may not...**" Thus, he said, the European Communities Act 1972, requiring metric, could and must repeal the Weights and Measures Act 1985 (allowing lb/oz), because the former was "constitutional" and the latter "ordinary".

Herein lies the conflict. Lord Justice Laws *specifically named* the Bill of Rights Act 1689 Act as a "constitutional Act". If his judgement is true, every Local Authority, Government agency and police force that fines people through the post, or on the spot, is now acting illegally, since the Road Traffic Act 1991 is, by contrast, an "ordinary" Act. Unless

the Road Traffic Act expressly refers to the Bill of Rights Act in its text (which it does not), it must fall by the wayside. So, the question arises: why are public authorities still collecting revenue from the public in this apparently illegal fashion?

BWMA in collaboration with the Metric Martyrs Defence Fund will be exploring means of bringing this uncertainty to the fore. We ask that any anyone who receives a parking fine (or similar) please contact us for information on how to ask their authority some very awkward questions.

## Local Government Association describes metric as low priority

In July 2004, the Deputy Chairman of the Local Government Association Cllr Peter Chalke said in an address to the Trading Standards community that there were more important issues requiring attention than enforcing metric. He said: "Trading Standards Officers need to concentrate efforts into the areas that most effectively protect and advise the public. I personally do not think that the prosecution of traders who continue to use imperial measures can ever be one of those priorities". Mr Chalke added: "Local authorities have to obey the law, but you really have to question whether this law is just another example of the stupid and irrelevant regulations coming out of the EU at present".

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# BRITISH WEIGHTS AND MEASURES ASSOCIATION

Patrons: Vice-Admiral Sir Louis Le Bailly; Sir Patrick Moore; Lord Monson; The Hon Mrs Gwyneth Dunwoody MP

**BWMA, 98 Eastney Rd, Croydon CR0 3TE**

**Tel: 020 8922 0089 (ansa machine)**

**Email: bwma@email.com**

Dear "Imperial" Trader,

Our Association campaigns for the retention of pounds and ounces, and other British units of measure. In particular, we support traders that use lb/oz weighing machines. Where traders come under pressure to convert to metric scales, we provide support by lobbying council officials, enlisting the help of local MP and MEPs and generating interest in the local press. We believe that Trading Standards Officers should be concerned with preventing short measure, not deciding what units of measure traders and customers should use.

If you are using imperial scales and are opposed to compulsory use of metric units, we will be pleased to advise you in the event of visits by Trading Standards Officers regarding your non-metric practices. We wish to ensure that you are permitted to use non-metric equipment and tickets. Please assist us by filling out and returning the below form. We look forward to hearing from you.

Yours sincerely,

John Gardner, Director

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**Return to: BWMA, 98 Eastney Rd, Croydon CR0 3TE**

Please tick:

I use **only** a lb/oz weighing machine

I use a **dual** lb/oz-metric machine, but leave it in the lb/oz mode

I use lb/oz **and** metric weighing machines, and alternate between the two

I now use only a metric machine, **but**:

Price tickets *only* in lb/oz

Price tickets *more prominently* in lb/oz, with metric in smaller print

Your name: \_\_\_\_\_

Business/shop name, and type (eg butcher): \_\_\_\_\_

Address : \_\_\_\_\_  
\_\_\_\_\_

Telephone and/or email \_\_\_\_\_

Please provide details of any recent visit by trading standards officers regarding non-metric practices:

\_\_\_\_\_  
\_\_\_\_\_

**Thank you**